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HORIZON TRUCK SALES AND LEASING,
LLC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION

CHARLES ROBERTS, an individual, and
KENNETH MCKAY, an individual, on behalf
of themselves and others similarly situated,

Plaintiff,

vs.

C.R. ENGLAND, INC., a Utah corporation;
OPPORTUNITY LEASING, INC., a Utah
corporation; and HORIZON TRUCK SALES
AND LEASING, LLC., a Utah Limited
Liability Corporation,

Defendants.

Case No. CV 11-02586 CW

Honorable Claudia Wilken

**STIPULATION PURSUANT TO CIVIL
L.R. 6.1(a) EXTENDING DEFENDANTS'
TIME TO RESPOND TO THE FIRST
AMENDED COMPLAINT FROM JULY 8,
2011 TO JULY 29, 2011; AND
STIPULATION AND ORDER PURSUANT
TO CIVIL L.R. 6.2(b) SETTING
CORRESPONDING BRIEFING AND
HEARING SCHEDULE AND
CONTINUING CASE MANAGEMENT
CONFERENCE TO SEPTEMBER 20, 2011**

Date Action Filed: May 27, 2011

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RECITALS

1. This stipulation is entered into by and between Plaintiffs CHARLES ROBERTS and KENNETH MCKAY (“Plaintiffs”) and Defendants C.R. ENGLAND, INC., OPPORTUNITY LEASING, INC., and HORIZON TRUCK SALES AND LEASING, LLC. (“Defendants”).
2. Plaintiffs filed the original Complaint in this action on or about May 27, 2011;
3. Plaintiffs served the original Complaint on Defendants on June 1, 2011;
4. Before Defendants were required to respond to the original Complaint, Plaintiffs voluntarily filed a First Amended Complaint (“FAC”) on June 14, 2011;
5. Plaintiffs served the FAC on Defendants on or about June 22, 2011;
6. Defendants must currently answer or otherwise respond to the FAC by July 8, 2011;
7. Because the current response date is the week of July 4 and defense counsel was only recently retained, Defendants requested an extension of time until July 29, 2011 to answer or otherwise respond to the FAC;
8. Plaintiffs agreed to this extension of time for Defendants to answer or otherwise respond to the FAC;
9. Should Defendants respond in any fashion other than an answer on July 29, 2011 (e.g. a motion under Rule 12), to accommodate Plaintiffs’ lead counsel’s summer vacation schedule (7/21/11 to 8/8/11), Plaintiffs have requested an extension until August 26, 2011 to file any opposition to such motion.
10. To accommodate Defendants’ lead counsel’s vacation schedule (8/20/11 to 8/30/11) and in recognition of the fact that Labor Day is September 5, 2011, Defendants’ reply shall be filed on or before September 10, 2011.
11. Because Defendants’ counsel is based in Southern California and in recognition of the fact that Labor Day is September 5, 2011, if agreeable to the Court, the parties respectfully request that any hearing on such motion be held September 20, 2011 at 2:00 p.m. and that the case management conference currently scheduled for September 6, 2011 at 2:00 p.m. be continued to

1 September 20, 2011 at 2:00 p.m.

2 **STIPULATION**

3 In light of the foregoing recitals, the parties hereby stipulate that:

4 1. Defendants' deadline to answer or otherwise respond to the FAC shall be extended
5 to July 29, 2011;

6 2. This extension of time for Defendants to answer or otherwise respond to the FAC
7 does not alter the date of any event or any deadline already fixed by Court and is therefore
8 effective pursuant to Civil L.R. 6-1(a) without any further order from this Court.

9 3. Defendants do not waive any of their legal rights with respect to the FAC by
10 entering into this Stipulation and expressly preserve all arguments that could be made pursuant to
11 Federal Rule of Civil Procedure 12 or any other law or statute;

12 4. Any motion brought by Defendants pursuant to Federal Rule of Civil Procedure 12
13 or any other law or statute on or before July 29, 2011 shall suspend any obligation Defendants
14 may have to answer the FAC until the motion is resolved;¹

15 5. Should the Defendants respond to the FAC in any fashion other than an answer
16 (e.g. by a motion under Rule 12), Plaintiffs' opposition shall be filed and served on or before
17 August 26, 2011;

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26 ¹ In the event a Rule 12 motion is filed challenging the FAC, Plaintiffs agree that Defendants
27 deadline to answer shall be governed by Federal Rule of Civil Procedure 12(a)(4) or such other
28 time as the Court may order.

1 6. Defendants' reply shall be filed and served on or before September 10, 2011.

2 7. Any hearing on such motion shall be held on September 20, 2011 at 2:00 p.m. or
3 any other date thereafter that the Court determines is appropriate.

4 8. The case management conference scheduled for September 2, 2011 at 2:00 p.m.
5 shall be continued to September 20, 2011 at 2:00 p.m. or any other date thereafter that the Court
6 determines is appropriate.

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8 DATED: June ___, 2011 LAGARIAS & BOULTER L.L.P.

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10 By: _____
11 Robert S. Boulter
12 Attorneys for Plaintiffs CHARLES ROBERTS and
 KENNETH MCKAY

13 DATED: June ___, 2011 THEODORA ORINGHER PC

14
15 By: _____
16 Walter Peña
17 Attorneys for Defendants, C.R. ENGLAND, INC.,
18 OPPORTUNITY LEASING, INC., and HORIZON
 TRUCK SALES AND LEASING, LLC.

19 **ORDER**


20 PURSUANT TO STIPULATION, IT IS SO ORDERED:

- 21 1. Any motion filed by Defendants on or before July 29, 2011 in response to the FAC
22 shall suspend any obligation Defendants may have to answer the FAC until the
23 motion is resolved;
- 24 2. Defendants have not waived any of their legal rights with respect to challenging the
25 FAC by entering into this Stipulation and maintain all arguments that could be
26 made pursuant to Federal Rule of Civil Procedure 12 or any other law or statute;
- 27 3. Should the Defendants respond in any fashion other than an answer (e.g. by a
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- motion under Rule 12), Plaintiffs' opposition is due on or before August 26, 2011;
4. Defendants' reply shall be due on or before September 8, 2011;
5. Any hearing on such motion shall be held September 22, 2011 at 2:00 p.m.
6. The case management conference previously set for September 6, 2011 at 2:00 p.m.
is continued to September 22, 2011 at 2:00 p.m.

Dated: **June 29** _____, 2011



Hon. Claudia Wilken,
United States District Judge